



environmental rail solutions, inc.

1/9/02
Sent

January 9, 2002

U.S. Nuclear Regulatory Commission
Attn: Mr. Martin Virgilio, Director
Office of Nuclear Material Safety and Safeguards
Washington, D.C. 20655-0001

Re: September 20, 2001 Letter from Martin Virgilio, Director, Office of Nuclear
Materials Safety and Safeguards to Envirocare of Utah
Via Express Delivery

Dear Mr. Virgilio:

As you may know, Environmental Rail Solutions, Inc. (ERS), a women-owned small business with corporate offices in New Jersey, submitted their proposal to transport and dispose of over 400,000 tons of soil and debris from the Maywood New Jersey FUSRAP site (MISS) to Stone & Webster (S&W) in August 2001. Unfortunately, ERS was notified in October 2001 by S&W that ERS would be disqualified from the bidding process.

We believe our disqualification came as a direct result of your letter to Envirocare of Utah referenced above. The NRC's change in position preventing disposal of the MISS soil at a secure Subtitle C disposal facility and requiring disposal at an 11e. (2) licensed facility offering an inferior liner system virtually eliminated our bid. Not only has Envirocare utilized your letter to pursue all of the Maywood site waste, they have also employed it in arguing for inappropriate classification changes at other clean-up sites.

For it's Maywood bid, ERS teamed with a subtitle C facility exclusively based in large measure on the fact that the NRC had twice confirmed that the material was pre-UMTRCA. The agency's surprising policy reversal after our bid was submitted requiring that all Maywood material must carry an 11e. (2) classification has confused the market place and disqualified ERS from being considered for an award.

I am attaching a copy of our protest letter to Stone & Webster for your review. The Army Corps of Engineers had accepted your previous and appropriate pre-UMTRCA classification and actually has shipped thousands of tons from this site in the past 6 months as pre-UMTRCA material. Under the circumstances, it is difficult for us to detect any reason for NRC to have changed its prior position other than in response to lobbying pressure from a commercial entity with an obvious economic self-interest.

115 cloverdale circle tinton falls, nj 07724
(732) 389-6554 fax (732) 389-6470
e-mail: ersdavid@home.com

Attachment 7

Page 2

January 9, 2002

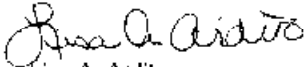
Mr. Martin Virgilio, Director

Office of Nuclear Material Safety and Safeguards

We accordingly urge you to revisit the issue at your earliest convenience and are hopeful that the NRC will determine that there is no precedent or health and safety benefit to changing its original non-UMTRCA classification. We request a response to this inquiry. Please feel free to contact us at (732) 389-8554 with any questions.

Sincerely,

Environmental Rail Solutions, Inc.

A handwritten signature in cursive script, appearing to read "Lisa A. Ardito".

Lisa A. Ardito
President